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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
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14 In re GRAND JURY PROCEEDINGS,) No. CR 06-90064 WHA
)
15 JOSHUA WOLF,) *EX PARTE* MOTION
) FOR HEARING
16 Subpoenaed Party.)
) (Local Rule 47-3)
)
18 _____)

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20 COMES NOW Subpoenaed Party Joshua Wolf and, pursuant to Rule 47-3 of the Local Rules
21 of the United States District Court for the Northern District of California, moves this Court *ex parte*
22 for an order scheduling a hearing to address certain issues related to his confinement. Specifically,
23 Subpoenaed Party Wolf wishes to address the Court on the following issues:

- 24 (1) Whether the Court will reconsider its prior decision and will agree to review *in camera*
25 the videotaped materials that Subpoenaed Party has thus far declined to turn over to the
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1 Grand Jury in order to determine whether such materials are relevant to the Grand Jury's
2 investigation; and

3 (2) Whether the Court will grant Subpoenaed Party a furlough from confinement so that he
4 may celebrate the Thanksgiving Holiday with his family.

5 In support of his motion, Subpoenaed Party presents the following:

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7 By its Order filed on August 1, 2006, this Court adjudicated Subpoenaed Party in civil
8 contempt and ordered him confined in light of his failure to provide certain videotaped materials to
9 the Grand Jury. With the exception of the period September 1 through September 22, during which
10 period Wolf was released on bail by the Order of the United States Court of Appeals for the Ninth
11 Circuit, Subpoenaed Party has been detained in custody at the Federal Correctional Institution at
12 Dublin, California.

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14 Counsel's research suggests that Wolf's detention for 81 days as of November 10, 2006,
15 represents one of the longest, if not the longest, periods of incarceration for a journalist held in civil
16 contempt for refusing to turn over materials to a Grand Jury in the history of the United States.

17 Counsel represents to the Court that he has personally reviewed the videotaped materials that Wolf
18 has refused, as a matter of conscience and principle, to turn over to the Grand Jury. Based upon that
19 review, counsel is of the opinion that the Court would conclude, if it viewed said materials *in*
20 *camera*, that they bear no relevance to the subject of the Grand Jury proceedings. On that basis, the
21 Court might well determine to revisit its order holding Wolf in civil contempt. See, Branzburg v.
22 Hayes (1972) 408 U.S. 665, 709-710 (Powell, J., concurring); In re Grand Jury Proceedings (Scarce)
23 (9th. Cir. 1993) 5 F.3d 397, 402.

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25 Should the Court determine not to revisit its decisions in this matter, Subpoenaed Party
26 respectfully requests that he be granted a brief furlough from confinement in order to spend the
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1 Thanksgiving Holiday with his family. Joshua Wolf is 24 years old and has been incarcerated for
2 almost three months because as a matter of conscience and principle he has refused to comply with
3 the Grand Jury's subpoena. He accepts the Court's decision and authority in this matter; nonetheless,
4 he asks the Court, in the exercise of its compassionate discretion, to provide him with some brief
5 respite from his incarceration in order to celebrate a holiday that stands as a symbol to the struggles
6 and principles upon which this nation was founded.
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8 Respectfully submitted this 10th day of November, 2006.

9 SIEGEL & YEE

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11 By _____
12 Dan Siegel

13 Attorneys for Subpoenaed Party
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